

FILED

United States District Court
Eastern District of North Carolina
Western Division

APR 29 2021

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY [Signature] DEP CLK

Case No. 5:21-CT-3119

(To be filled out by Clerk's Office only)

Lonnie B. Davis

Inmate Number 14880-057

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

Mr. Bell, L-Unit Mgr. ^{-against-} Mr. Tuttle, BISM Contractor, Mr. Overstreet, BISM Contractor
(Pro Se Prisoner)

U.S. of America (Admin. Tort: TRT-MXR-2020-

Jury Demand?

☒ Yes

☐ No

06660) Warden D. Lee, Mr. Engle, AWP,

Mr. Saeger, M-Unit Counselor, Mr. Neville, M-Unit Counselor

Mr. Boheman, Laundry Supervisor, Mr. Besaw, L-Unit Counselor

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☒ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- ☒ Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

II. PLAINTIFF INFORMATION

Lonnie Bernard Davis
Name

14880-057
Prisoner ID #

PCZ Butner 2
Place of Detention

P.O. Box 1500
Institutional Address

Butner N.C. 27509
City State Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee ☐ State ☐ Federal
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner

IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1: Mr. Bell
Name
C-Unit Manager
Current Job Title
FCZ Butler 2
Current Work Address
Butler N.C. 27509
City State Zip Code
Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant 2: Dr. Ley
Name
Warden of FCZ Butler 2
Current Job Title
Butler Complex, FCI Butler 2, P.O. Box 1500
Current Work Address
Butler N.C. 27509
City State Zip Code
Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant(s) Continued

Defendant 3: Mr. Tuttle
Name

BISM Contractor at Prison Industry (FCI Butner)
Current Job Title

2100 Harrod St.
Current Work Address

Brentwood N.C. 27604
City State Zip Code

Capacity in which being sued: ☒ Individual ☐ Official ☐ Both

Defendant 4: Mrs. Overstreet
Name

BISM Contractor at Prison Industry (FCI Butner 2)
Current Job Title

2100 Harrod St.
Current Work Address

Brentwood N.C. 27604
City State Zip Code

Capacity in which being sued: ☒ Individual ☐ Official ☐ Both

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Defendant(s) Information Cont.

Defendant 5: Mr. Engle

Assistant Warden of Program
current Job Title

FCI Butner 2; P.O. Box 1500
current Work Address

Butner
city

N.C.
state

27509
zip Code

Capacity In Which Being Sued: Individual Official ☒ Both

Defendant 6: Mr. Jaeger

M-A Unit Counselor
current Job Title

FCI Butner 2; P.O. Box 1500
current Work Address

Butner
city

N.C.
state

27509
zip Code

Capacity In Which Being Sued: Individual Official ☒ Both

Defendant 7: Mr. Besaw

L-A Unit Counselor
current Job Title

FCI Butner 2; P.O. Box 1500
current Work Address

Butner
city

N.C.
state

27509
zip Code

Capacity In Which Being Sued: Individual Official ☒ Both

Defendant(s) Information Continued

Defendant 8: Mr. Neville

M-C Unit Counselor
Current Job TitleFCZ Butler 2nd P.O. Box 1500
Current Work AddressButler
CityN.C.
State27509
Zip CodeCapacity In Which Being Sued: Individual Official ☒ Both

Defendant 9: Mr. Boheman

Laundry Supervisor
Current ~~Job Title~~FCZ Butler 2nd P.O. Box 1500
Current Work AddressButler
CityN.C.
State27509
Zip CodeCapacity In Which Being Sued: Individual Official ☒ Both

V. STATEMENT OF CLAIM

Place(s) of occurrence: FCZ Butner 2 (Butner Complex)

Date(s) of occurrence: On around 2020 to present time

State which of your federal constitutional or federal statutory rights have been violated:

Plaintiff asserts deliberate indifference of FICA with negligence. Plaintiff was deprived in the Bivens/1983 with intentional conduct that resulted with either under harassment, retaliation and discrimination that violates 1st, 5th, 8th and 14th Federal statutory rights. State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

Who
did what to
you?

On April 9, 2020 I alleged "Racial Profiling" through the grievance system concerning Mr. Tuttle and Mr. Overstreet both BISM Contractors at Prison Industry (FCZ Butner 2). They had acted in a manner of becoming towards me (also both had came to my work station while I was clearly viewed sewing at the machine and they've in an accusatory manner / tone "Do you have any work" to which baffled me interpreted as get back to work). Furthermore, Mr. Tuttle on March 10, 2020 asserted to me and an inmate co-worker sitting next to me "Kissy Kissy". I felt that was inappropriate also. I went to them (contractors) and asked for their view on my work performance and both assured me they were satisfied and there were no complaints, but they continued with their disparate treatment towards me. They were coincidentally white males repetitively selecting white inmates for other positions that required training for possible promotional position(s). The report of their misconduct adversely effected me with other staff misconduct and mistreatment. FCZ Butner 2 prison industry went on LAY EN due to the COVID-19 pandemic April 1, 2020 and work resumed again July 2020 in (PIE), but I was overlooked

What
happened
to you?

Far recall. Prior to the COVID-19 pandemic Cpt. Wright, FCZ Butner 2 had implemented a No Provision / No Mask Wearing policy for inmates and on March 17, 2020 at work (PIE) an inmate sitting next to me had a bad cough (Cold/Flu Type Symptoms) and we were sitting at our sewing machines with a FAN blowing right in both our direction. The inmate had recently been isolated because of the above assorted symptoms. I went to Mr. Thomas, (PIE) Foreman and requested the issuance of a mask for the circumstance, but was informed the compound was still not providing masks to inmates. Later that same day during the lunch meal I spoke with Cpt. Wright and inquired about the No Issuance of Mask policy and told him about the incident/circumstance at work and his response was to

When did it
happen to
you?

utilize social distancing (keep in mind these were modified conditions of confinement with No Mask Wearing / Issuance to inmates). On 4/13/20 there was a notice of the wearing of cloth face covering (How To Wear) and also a notice on the wearing of gloves (PPE). Unfortunately, this over a month since the imposition of modified conditions of confinement due to the COVID-19 pandemic which I assert in Admin. Tort's TRT-MXR-2020-0666 D.

Where did it
happen to
you?

On May 7, 2020 in M-A Unit Mr. Boheman, Laundry Supervisor open my cell trap door to accept my dirty laundry, but instead of performing as he did with the other inmates by gathering their dirty laundry for exchange/washing he began stating to me "You can't Talk You've Been Talking I CAN'T see what you saying as I pointed my arm out the door toward the floor in front of my cell where I had placed my dirty laundry as the other inmates and asserted "I know you can see my dirty clothes on floor right in front of my cell" Mr. Boheman stated I can't see just like you can't talk now put your arm

FACTS: by (SIS) investigative services Cpl Wright that he recommended that remain assign to (PIE), but only a recommendation of housing in M-C unit (other prison industry work unit) and therefore not housed with the inmate who was placed as I was previously on administrative segregation on 9/22/20. I also attempted to inquire with Mr. Bell, C-Unit Mgrs on 11/30/20 for a response to this internal BP8 whom verbally responded to me, "Not Open for Discussion and Further stated Your Not Going Back to Lincoln You Shouldn't Have Messed Up in M-Unit's". I assert Mr. Bell and Counselor Besaw has conspired along with other U.S. Const. violations with their disparate treatment and violation of my equal protection right that caused adverse consequences by being adversely effected for job program re-assignment for the reason they explain because "THEY SAID" I had to be re-assigned another job since I wasn't housed with the other prison industry workers. First off, I was not provided a reason for the unit re-assignment or separation of it unofficially. There are no Separates with the re-assignment of housing, but only a "THEY SAID" to which was perform by them with no incident report/write-up Free while I was in compliance of October 17, 2019 FRP obligation where 50% were monthly deducted from my earnings. I attempted at Warden level BP9 to address these concerns but have not received a reply and nor did they ^(TEAM) reply at BP8 level informally.

Conclusion

This complaint initiated in the prison industry (PIE) workplace and as a result of my use of the grievance system there were intentional conduct that violated either 1st, 5th, 8th and 14th amendments of my Federal Statutory Rights.

What was
your
injury?

back in and I complied. I wrote a grievance of staff misconduct "Racial Profiling" for the harassment and remarks. Mr. Boheman further harassed me by returning my laundry soaking wet and again with an uniform pants removed as co-incidentally all my back pocket pants got ripped. On May 28, 2020 in M-A unit Counselor Neville remarked to the unit orderlies as he looked and nodded in my direction "What's That Over There What Does He Want"? As he implied these remarks towards me I overheard the orderlies reply "I don't know what he want"? I waited for him to finish speaking with the other inmates before I approached him asking that he accept and process a BP8, but he refused and shut the unit team area door in my face and walked away. Now, Counselor Neville's remarks towards me were profiled as demeaning as harassment, to which I believe because of my use of the grievance system. I submitted a complaint of this incident twice informally BP8 before I received a reply where I could proceed to the higher level BP9, to which I never receive a response concerning Counselor Neville (Racial Profiling And Harassment) towards me. Furthermore, Counselor Neville have continued with his harassment towards me on around March 31, 2021 during his late night he remarked to me at last meal "You Can Keep On Writing Me Up Because You Most Definitely Ain't The Smartest". I did not comment. Lastly, after being re-housed from M-A to L-A unit in October 2020 I was assigned prison industry (PIE) until around November 20, 2020 when Counselor Besaw, L-A/CB unit removed my name from participating in the (PIE) program with prison industry. I inquired to him informally on 11/20/20 for an explanation of why did he re-assign my job from (PIE) and he asserted "THEY SAID YOU CAN'T BE ASSIGN TO (PIE) AND NOT BE HOUSED IN M-UNIT". I asked Counselor Besaw who is "THEY", because I was informed

VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint? ☒ Yes ☐ No

If no, explain why not:

Mr. Boheiman, Laundry Supervisor; Mr. Tuttle, BISM Contractor
at prison industry (PIT Butler 2) and Mr. Overstreet, BISM Contractor
at prison industry have been completely exhausted (Admin Remedy #
1016345-AZ Tuttle/Overstreet) (Admin Remedy # 1029190-R1 Boheiman)

Is the grievance process completed?

☐ Yes ☒ No

If no, explain why not:

Team responded to informally BP8 to Mr. Ned, 11/2, but did not at Warden
level BP9. There were no responses at either BP8 or BP9 levels after
submission concerning Mr. Bell, Mr. Begawi, Mr. Engle, Mr. D. Lewis and
Mr. Saeger.

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Plaintiff alleges that as a result of defendants conduct he has lost past,
future ^{earnings} and other employment benefits and suffered embarrassment, humiliation
and anguish. Plaintiff seeks punitive, declaratory and compensatory damages
with immediate re-instatement to job assignment in (PIT) prison industry with
back pay from July 1, 2020 to present time for defendants conduct was outrageous,
malicious, intentional and carried out with reckless indifference to his civil rights.
Plaintiff's program job re-assignment establishes improper conduct, improper practices
of ignoring discrimination and failing to protect those who complained about
discrimination. Furthermore plaintiff seeks supervisory liability for the Warden D. Lewis and
Mr. Engle, AWP for Respondent Superiors of their failure to intervene the custom of
unlawful discrimination on the basis of race and there was retaliation against the
inmate who complained about the discrimination. \$25,000 for the FTCA claim as
plaintiff seeks compensatory, declaratory and punitive with attorneys fees and cost all decided
trial by Jury for Rileys A. J. 1983 Complaint.


IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint and provide prison identification number and prison address.

April 23, 2024
Dated


Plaintiff's Signature

Lonnie Bernard Davis
Printed Name

14880-057
Prison Identification #

FCZ Butler 2, P.O. Box 1500; Butler, NC, 27509
Prison Address City State Zip Code

- CERTIFICATE OF SERVICE -

I, Lonnie Davis petitioner, "pro Se," do hereby certify, pursuant to Title 28 U.S.C. § 1746, that on this 23rd day of April, 2021, I placed a true and correct copy of the foregoing Civil Complaint in the legal mail system for prisoners located herein at the FCZ Butner 2, to be forward to the foregoing party'(s) below:

⇨ 14880-057 ⇨
Clerk Usdc-Ednc
PO BOX 25670
Raleigh, NC 27611
United States

Date: April 23, 2021

Signature [Signature]

⇨ 14880-057 ⇨
Lonnie B Davis
Insitution Butner 2
2 OLD 75 HWY
Federal Correctional
Butner, NC 27509
United States

Dear Clerk:

Enclosed is the above referenced cause for filing please send me a stamped/filed copy in the provided stamped addressed envelope

Respectfully Submitted,

[Signature]